

THE TOWN AND COUNTRY PLANNING ACT 1990

PROOF OF EVIDENCE BY
James Hyde (BA (Hons), MA, MRTPI)
Spatial Planning Project Manager for Barnsley
MBC

APPEAL BY:

Network Space Developments Limited

SITE:

Land north of Shaw Lane, Carlton, Barnsley, S71 3HJ

DEVELOPMENT DESCRIPTION:

Residential development of up to 215 dwellings with associated car parking/garages, landscaping, public open space including both equipped and non-equipped areas of play, SUDS and drainage, with details of a new vehicular access onto Shaw Lane (Outline with all matters reserved apart from means of access).

APPEAL REFERENCE:

APP/R4408/W/24/3341097

1. Personal Details

1.1 My name is James Hyde and I am a Spatial Planning Project Manager for Barnsley MBC. I have over 19 years of experience in town and country planning and I have been a chartered member of the Royal Town Planning Institute for 14 years. I graduated from the University of Liverpool in 2001 with a First Class Honours degree (BA Hons) in Environment and Planning, specialising in Urban Design. I obtained a Master of Arts degree (MA), with Merit, from Leeds Metropolitan University (now Leeds Beckett) studying Town and Regional Planning, graduating in 2008. I have also just passed, with Distinction, a Level 5 Diploma in Management and Leadership through the Chartered Management Institute (CMI), I am currently awaiting confirmation of my full chartered manager award following the completion of the apprenticeship.

1.2 My responsibilities include; Providing professional advice, guidance and recommendations to internal and external stakeholders including Members and external bodies, processing the most complex and contentious policy and/or development management issues, Interpreting evidence, legislation, plans, policies and guidance and making recommendations to Cabinet and/or Planning and Regulatory Board and playing a lead role in the preparation, review, development, implementation and monitoring of relevant planning policy documentation.

1.3 I was the Planning Officer who made the recommendation to the Planning Regulatory Board on this application (Ref: 2022/0115), as such, I have been involved in this case since the application was made valid.

1.4 The evidence that I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I can confirm that the opinions expressed are my true and professional opinions.

2 Main Issues

2.2 The main issues, as set out in the Case Management Conference, that my Proof of evidence will address are;

- i) 'whether the proposal would accord with the Carlton Masterplan Framework and Delivery Strategy' and;
- v) 'Whether the proposed housing density is acceptable, having regard to the Carlton Masterplan Framework'.

2.3 It is noted that during the Case Management Conference it was suggested that these two points would be merged for the purposes of the inquiry.

2.4 Further to the above, I will also address the overall planning balance.

3 Executive Summary

3.1 The tilted balance is engage in this case. The Council cannot demonstrate a 5 year supply of housing land, as set out in the Statement of Common Ground. At the time of writing there are no other planning applications for residential development within allocations MU3 and MU2.

3.2 The site has been identified and allocated for development in the Local Plan as Site MU3 for mixed housing and green space. The benefits of the scheme are as follows;

- The development would contribute upto 215 houses toward housing delivery targets within the borough which carries substantial weight. The most compelling benefit is clearly housing, in view of the housing land supply position.

- The scheme would provide 10% affordable Housing, 10% BNG and Public Open Space and contributions towards education, Sustainable Travel and the Northern Access Road. This would carry moderate weight as these contributions are required by the relevant Local Plan Policies, SPD's, Masterplan and associated Delivery strategy.

3.3 This development parcel is identified as L11 in the Carlton Masterplan Framework and forms part of Phase 3 of the Masterplan Phasing Strategy. A Northern Access Road is required to serve the site from Royston Lane due to congestion on the existing highway network. However, in order to secure access to Royston Lane, phased development of the parcels will require L12 (also forming part of phase 3) to be brought forward in advance of L11 and as such this application, which proposes access solely from Shaw Lane, is deemed to be out of sequence and premature, substantially weighing against the proposal. Furthermore, Phase 4 is also reliant on the delivery of the Northern Access Road, as such, by not bringing that forward it prejudice the development of a further 244 dwellings.

3.4 It is considered that the development of this site, as proposed, would fail to bring forward a coordinated, comprehensive and quality development, contrary to the requirements of the Carlton Masterplan Framework and Design Code (CD5.1) and Local Plan Policies D1 'Design' and GD1 'General Development'. The applicants have approached the site (parcel L11) in isolation without creating a cohesive development that sits comfortably within its context and being well integrated with the surrounding landscaping and neighbourhoods, particularly in terms of its integration with the immediately adjacent L12 parcel of land.

3.5 The appellants have also failed in terms of the specific infrastructure delivery requirements set out in the Carlton Masterplan Framework Delivery Strategy (CD5.2) including coordinating the

public open space shown on the Masterplan alongside the landowners/developers of parcel L12, and providing a small local shop as required by the Local Plan and Masterplan.

3.6 The proposals also fall short on achieving the minimum housing density figures required by the Masterplan and Local Plan Policy H6. The absence of a firm commitment to comply with the housing densities in the masterplan is unacceptable from a Local Plan housing delivery perspective.

3.7 Furthermore, there are substantial highways issues as a result of the site coming forward prematurely and not being accessed via the Northern Access Road, as set out in the Highways Proof of Evidence. Previously, it was considered that the proposed junction works and associated street paraphernalia at Shaw Lane/Church Street would result in less than substantial harm. Further dialogue between the appellant and the Council has identified mitigation measures which will reduce the harm such that there is no harm. The appellant would of course need to secure these measures under an appropriate condition. This is expanded further in the Conservation Proof of Evidence.

3.8 The site is also adjacent to a SSSI and no SSSI Assessment was submitted with the Planning Application. This assessment has now been received but is currently being assessed by Natural England and Yorkshire Wildlife Trust. An update on the outcome will be provided prior to the Inquiry and is addressed in the Ecology Proof of Evidence.

3.9 In the Council's opinion, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits highlighted in para 3.2 above. The Council therefore respectfully requests that the appeal is dismissed accordingly. This is also my opinion as a planner and as the planning witness in this inquiry.

3.10 The points raised in the summary above will be expanded upon under the following headings;

4 Background

4.1 The development plan comprises the Barnsley Local Plan (CD3.1), which was adopted in 2019 ("the Local Plan") and the Joint Waste Plan, adopted in March 2012 and made Neighbourhood Plans.

4.2 Barnsley Council resolved at Cabinet on 2nd November 2022 that the Local Plan “remains fit for purpose and is adequately delivering its objectives”, which means “no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. A further review will take place in 2027 or earlier if circumstances, including fundamental changes to the Local Plan system, require it”.

4.3 Within the Local Plan policy MU3 ‘Land Off Shaw Lane’ is a site specific policy relating to the appeal site. The ‘MU’ part of the policy refers to ‘Mixed Use’. The proposed mix of uses are set out in the site specific policies and where there are specific issues site specific policies are provided. All mixed use developments will be expected to provide adequate access and internal road layouts to allow the complete development of the entire site, and to provide appropriate vehicular and pedestrian links throughout the site and into adjacent areas.

4.4 Local Plan Policy MU3 sets out that the appeal site is proposed for a mixed use development for housing and green space. It goes on to state that development will be subject to the production of a phased Masterplan Framework covering the entire site to ensure that development is

brought forward in a comprehensive manner. The policy requires the developers, amongst other things, to provide robust measure to mitigate ecological impact, provide robust mitigation measures to mitigate against noise, odour and other potential impacts and provide small scale convenience retail and community facilities in compliance with Local Plan Policy TC5 Small Local Shops.

4.5 On the back of Local Plan Policy MU3 (and the neighbouring MU2 'land between Fish Dam Lane and Carlton Road) The Carlton Masterplan Framework was adopted by full Council on 25 November 2021, following a six week public consultation exercise. Policy MU3 requires the production of the Masterplan for the allocated site and the Carlton Masterplan Framework and Design Code adds the details as to what is required to be delivered. The Masterplan was designed to provide high-quality housing within a pedestrian and cyclist-friendly environment linking to the surrounding outdoor spaces such as Carlton Marsh Nature Reserve, the Trans Pennine Trail and the National Cycle Network.

4.6 The masterplan includes the following:

- 1500 new homes, a small local shop, and a community garden.
- proposals for a 210-pupil expansion to Carlton Primary Academy.
- Wharnccliffe Woodmoor will be a key community green space central to the masterplan, with green corridors through the site connecting to Carlton Marsh.
- The design team will be working with Yorkshire Wildlife Trust to identify opportunities to further enhance the biodiversity value of Wharnccliffe Woodmoor.
- The masterplan requires a 10% net gain to biodiversity.
- The site also provides renewable energy opportunities.

4.7 The Carlton Masterplan Framework is also accompanied by the Carlton Masterplan Delivery Strategy. This document sets out the proposed delivery strategy for the Masterplan. It sets out the roles and responsibilities of the various landowners and developers involved in the scheme alongside BMBC as both the Local Planning Authority and Highway Authority. The Delivery Strategy also includes a Phasing Strategy as it is expected that development of the allocated sites will come forward in a series of phases (section 3 of CD5.2).

4.8 The MU2 and MU3 sites are separated into 17 land ownership parcels in the Masterplan and Delivery Strategy (Figure 1, page 3 of CD5.2). The appeal site has been allocated L11 as a reference.

5 Point I 'accordance with the Masterplan & Delivery Strategy'

5.1 The appeal site forms part of a mixed use allocation (MU3) as allocated in the Local Plan (adopted 3rd January 2019). The site specific policy for MU3 states the development will be subject to the production of a phased Masterplan Framework covering the entire site to ensure that development is brought forward in a comprehensive manner with infrastructure conceived and designed and delivered in a phased and planned way. A Design Code forms part of the Masterplan Framework and has been based on Building for a Healthy Life Standard. Subsequently, the Carlton masterplan Framework, and associated Delivery Strategy, was adopted by Full Council on 25th November 2021 and sets out the detailed requirements for the site.

5.2 The consultation process of the Carlton Masterplan Framework and Delivery Strategy was as follows:

- May 2018 – Version 1 for the Royston and Carlton Masterplan Framework (Network Space Development Ltd signed NDA so could be party to early discussions)
- 2 June 2021 – Carlton Masterplan Framework (Round 1 Consultation) – heard at Cabinet meeting.
- From 16 June to 21 July 2021 – a six-week consultation exercise was carried out to gather views on the Consultation Carlton Masterplan Framework.
- 16 September 2021 – First Draft of the Delivery Strategy produced by the Council.
- 22 October 2021 – Delivery Strategy issued by Council in advance of Cabinet meeting.
- 3 November 2021 – Carlton Masterplan Framework (Adoption) – heard at Cabinet meeting. The Delivery Strategy was appended to the Framework at this meeting.
- 25 November 2021 – Carlton Masterplan Framework (Adoption) – heard at Full Council meeting. The Delivery Strategy was appended to the Framework at this meeting.
- It should also be noted, the Appellant actively participated in the preparation of the Carlton Masterplan Framework, as a willing landowner. These took the form of monthly meetings from early 2020 to the adoption Carlton Masterplan Framework on 25 November 2021 with Officers, alongside attendance at all Landowner workshop and presentations during 2021.

5.3 The Carlton Masterplan Framework sits beneath the Local Plan and provides the key principles that planning applications within the Masterplan area must align to. It forms material guidance in the determination of planning applications within that area. Looking at large allocations in this

way, rather than on a site-by-site basis, makes sure we can make the best use of sites and secure sustainable and inclusive growth reflecting each of the council's corporate priorities. By not adhering to a Masterplan Framework, developers and landowners could bring forward planning applications to develop their own sites in isolation without proper consideration of the wider area and infrastructure requirements. Furthermore, the National Planning Practice Guidance states that masterplans *"help to clarify design expectations early in the planning process, set a clear vision for the site, inform infrastructure and viability assessments and identify requirements for developer contributions or other investment"*.

5.4 To help deliver development on the largest site allocations, consistent with the vision and objectives of the local plan and the identified policy solutions, allocations such as MU3 are required to have masterplan frameworks that are subject to public consultation, in line with paragraph 6.12 of the Local Plan. The residents of the borough, especially those that were involved with the Masterplan process, need to see proposals coming forward that are policy/masterplan compliant rather than looking at various parcels individually and assessing whether they are bad enough to refuse/good enough to permit.

5.5 The site is also subject to the Carlton Masterplan Delivery Strategy (CD5.2). This document sets out the roles and responsibilities of the landowners and developers involved, including parcel L11, in terms of planning Strategy, phasing strategy, infrastructure requirements and infrastructure delivery. It is expected that development of the Masterplan area will come forward in a series of phases. It is noted that phases will not necessarily be delivered sequentially, however the delivery of certain phases will be dependent upon the availability of infrastructure networks (e.g. highways, drainage, utilities, etc.) to serve the respective parts of the site.

5.6 In this case the site falls within phase 3 where the Delivery Strategy is clear in stating that, due to congestion on the existing highway network, access needs to be secured off Royston Lane via the Northern Access Road (page A5 of CD5.2). However, the appellants are seeking to secure access solely from Shaw Lane, contrary to the Masterplan and associated Delivery Strategy. The appellants reference this deviation in their Masterplan Compliance Statement. The failure to deliver the Northern Access Road in sequence would also prejudice the development of the 244 homes within phase 4 which are reliant on the Northern Access Road. As such, the site would not be developed in a comprehensive manner with infrastructure conceived and designed and delivered in a phased and planned way, contrary to Local Plan policy MU3 and the Carlton Masterplan Framework/Delivery Strategy. The requirement of the Northern Access Road and unsuitability of Shaw Lane as a sole access to the site are covered in more detail in the Highways Proof of Evidence.

5.7 Furthermore, the Masterplan movement strategy prioritises walking, cycling and public transport to encourage sustainable travel. An important indicator of a site's sustainability is its access to public transport in that dwellings should be within a 400m walk of a bus stop. The Northern Access Route would provide a bus corridor through the site and meet the 400m requirement. Without the Northern Access Route, the dwellings would be considerably further from a bus stop and, as such, not sustainable with a greater reliance on cars contrary to the Masterplan and Local Plan Policies T3, D1 and CC1. This is expanded further in the Highways Proof.

5.8 As set out in reason for refusal 1, it is considered that the development of this site, as proposed, would fail to bring forward a coordinated, comprehensive and quality development, contrary to the requirements of the Masterplan and Local Plan Policies D1 'Design' and GD1 'General Development'. The applicants have approached the site (parcel L11) in isolation without creating a cohesive development that sits comfortably within its context and being well integrated with

the surrounding landscaping and neighbourhoods, particularly in terms of its integration with the immediately adjacent L12 parcel of land.

5.9 The appellants have also failed in terms of the specific infrastructure delivery requirements set out in the Delivery Strategy (para 5.4.6 of CD5.2) including coordinating the public open space shown on the Masterplan alongside the landowners/developers of parcel L12. Parcel L12 sits between the appeal site (L11) and Barnsley Canal and Carlton Park beyond. The Public Open Space shown in the Masterplan straddles the two parcels and, as such, should be designed in a comprehensive and collaborative manner to achieve the aims of the Masterplan and Design code. The appellant does propose connections to the canal and associated footpaths for active travel but they are relying on third party land to complete those connections and a cohesive scheme overall on the MU3 allocation.

5.10 The appellants also fail to include a small Local Shop within their proposed scheme. Local Plan Policy MU3 states the allocation shall 'provide small scale convenience retail ... in compliance with Local Plan Policy TC5 'Small Local Shops''. The Masterplan Delivery Strategy, Paragraph 5.4.6 'Phase 3 – L11 Area' sets out the specific requirements to be placed parcel L11 in relation to infrastructure delivery and includes 'provide a small local shop as required by the Local Plan as indicated in the Masterplan Framework. The local shop would be for the benefit of the local community given the existing facilities are not within a reasonable walking distance of the site.

5.11 It follows that if planning applications are allowed on an ad hoc, piecemeal basis this will be without a full understanding of the cumulative infrastructure requirements. In a scenario where those that obtain planning permission first are not making the required contributions for cumulative infrastructure, such as the Local Shop, the burden will fall on the owners of the remainder of the land i.e. L12 and L17, to provide that infrastructure in accordance with Policy

MU3 and the Masterplan. This could mean that either they refuse to release their land or applications come in with requests for policy concessions or requests for public sector funding. This would either stall or slow down delivery undermining the alleged benefits of earlier delivery.

6 Point V 'Density'

6.1 As stated in reason for refusal 6, the proposed development falls short of achieving the minimum housing density figures required by the Carlton Masterplan Framework. The absence of a firm commitment to comply with the housing densities in the masterplan is unacceptable from a Local Plan housing delivery perspective and is contrary to Local Plan Policy H6 'Housing Mix and Efficient Use of Land' and specific requirements contained within the Carlton Masterplan.

6.2 The wider site allocation is divided into 3 density zones, a high density Zone adjacent to Shaw Lane with an average density of 40-45 DPH, a medium density zone centrally located within the site with an average density of 35-40DPH and a low density zone to the north of the site with an average density of 30-35 DPH. Combined, the average density across the wider site (L11, L12 & L17) should be 40 DPH (584 homes across 14.6Ha as shown in Fig.12 of CD5.1) which is in line with Local Plan Policy H6 'Housing Mix and Efficient Use of Land'. The appeal site falls within 2 of those density areas, high density and medium density, as such, should have an average density above 40dph to off-set the lower densities on the neighbouring sites.

6.3 It is noted that the application is in outline form but an indicative layout plan has been supplied and the proposal is for up to 215 dwellings with 133 homes shown in the 3.28Ha higher density area and 82 dwellings in the 2.46Ha medium density area, equating to a combined 37 dwellings per hectare, short of the 40 dwellings per hectare required by Local Plan Policy H6. Furthermore, as outlined above, as this site falls within the higher and medium density allocation it should carry

a higher average density to offset the neighbouring lower density sites to achieve an overall 40 dwelling per hectare average. The Masterplan Compliance Statement provided by the appellant also highlights this deviation from the policy and Masterplan.

6.4 Policy H6 states lower densities will be supported where it can be demonstrated that they are necessary for character and appearance, need, viability or sustainable design reasons. However, the appellants have not demonstrated this and, in fact, land parcel L11 contains the majority of the high density area with Parcel L12 being predominantly medium density and parcel L17 being low density. Parcel L11 is enclosed by the railway line to the East, Shaw Lane to the South and the adjacent parcels of land to the West and North. As such, Parcel L11 should bear the majority of the density as it has the least sensitive borders, given parcel L12 adjoins the canal, Trans Pennine Trail and Carlton Park and L17 adjoins Green Belt and open countryside.

6.5 If Parcel L11 falls short of the density requirement, then the burden would fall on the neighbouring parcels of land to achieve the required housing numbers which, given their location and sensitivity, is likely to have a negative impact on visual amenity and the development pattern of the area, contrary to Local Plan Policy D1 and NPPF para 131. As this would be the first development on the MU3 allocation, a lower density would put added pressure on the landowners and developers across the entire allocation, not just the adjoining sites to the North of Shaw Lane, to make up the shortfall in housing numbers which is unacceptable from a Local Plan housing delivery perspective.

6.6 Furthermore, the reduced density may impact the level of contributions, in that the appellants would have a lower requirement, again, impacting unfairly on other neighbouring landowners/developers who would be required to provide higher density housing and a greater

burden of contributions towards the infrastructure required to mitigate the Policy H6 and Masterplan requirement.

7 Planning Balance and Conclusions

7.1 The table below summaries the Council’s position in respect of each of the directly applicable Local Plan policies as articulated in the report to Planning & Regulatory Board, statement of case and proofs of evidence:

Policy	Scheme in Accordance?	Weight Attributed	Reason
GD1	No	Substantial	GD1 states developments will be approved if ‘they are compatible with neighbouring land and will not significantly prejudice the current or future use of the neighbouring land’. The proposal would prejudice the potential development of the wider area because of the burdens likely to be imposed on other landowners, it fails to provide adequate access and internal road layouts or optimal landscaping for the entire site. The proposal also fails to bring forward a comprehensive and cohesive development with the neighbouring allocated land. These conflicts attract substantial weight.
H6	No	Significant	The proposal falls short of the requirement to make effective and efficient use of land by providing a

			<p>minimum of 40 dwellings per hectare. This significantly weighs against the proposal because there is no certainty that the yield can be achieved by increasing densities in subsequent phases.</p>
MU3	No	Substantial	<p>The scheme is considered a form of piecemeal development prejudicial to the policy and associated Masterplan and out of sequence with the Delivery Strategy. Furthermore, the development does not include the required Small Scale Convenience Retail store.</p>
D1	No	Substantial	<p>The development would not be brought forward in a comprehensive manner with infrastructure conceived and designed and delivered in a phased and planned way. Policy D1 'High Quality Design and Place making' states development should, amongst other things, 'contribute to place making and be of high quality, that contributes to a healthy, safe and sustainable environment', provide clear and obvious connections to the surrounding street and pedestrian network'. It is argued the development fails to meet these requirements.</p>
T2	Yes	None	<p>The site is adjacent to a railway line but is already allocated for Mixed Use and would not negatively impact it.</p>

T3	No	Substantial	<p>Policy T3 states new development will be expected to 'be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cyclists'. An important indicator of a site's sustainability is its access to public transport in that dwellings should be within a 400m walk of a bus stop. The Northern Access Route would provide a bus corridor through the site and meet the 400m requirement. Without the Northern Access Route, the dwellings would be considerably further from a bus stop and, as such, not sustainable with a greater reliance on cars</p>
T4	No	Substantial	<p>The development is contrary to the Masterplan Framework and delivery Strategy in that it is premature and would not be accessed from the NAR. The sole access from Shaw Lane would create or add problems of safety or the efficiency of the highway. This is contrary to policy T4 which states 'New development will be expected to be designed and built to provide all transport users ...safe, secure and convenient access and movement'. This is covered further in the Highways Proof.</p>
T5	No	Substantial	<p>T5 requires 'implementing measures to ensure the current road system is used efficiently'. The proposed</p>

			access and off site highways works would negatively impact the efficiency of the road network.
CC1	No	Substantial	Policy CC1 seeks to reduce the causes of and adapt to the future impacts of climate change. The development does not accord with this policy for the reasons outline in section T3 above.
SD1	No	Substantial	Policy SD1 aims to secure development that improves the economic, social and environmental conditions in the area. The development does not accord with the development plan. It also fails to provide necessary infrastructure, therefore, undermining its socio-economic credentials. It does not therefore constitute sustainable development.
LG2	Yes	None	Any residential scheme on a site allocated for mixed use including housing would accord with this policy regardless of its other credentials
H1	Partial	Substantial	Substantial weight is given to the housing delivery but bringing forward the allocated site is not a benefit of the scheme as this could be brought forward by other developers with a policy compliant scheme.
H2	Yes	Limited	The site is within Urban Barnsley and is allocated in the plan but any scheme for the quantum of residential development proposed would accord with this policy regardless of its other credentials.

H7	Yes	Limited	The policy requirement for 10% of houses to be affordable reflects conditions throughout the wider housing sub market area. On the basis that the NPPF requires a minimum of 10% affordable housing and the applicants concede this would be provided, it is likely that all residential schemes for the quantum of development proposed would have to include 10% affordable housing. As such, the fact the scheme complies with policy H7 can only be attributed limited weight.
TC5	No	Substantial	Policy MU3, The Masterplan and Delivery Strategy requires a small local shop. Policy TC5 sets out the criteria for a small local shop in such a location. The lack of shop would be detrimental to the local community and would increase reliance on car usage.
HE1	Yes	None	It is for the Appellant to demonstrate that the proposed mitigation can be secured through an appropriately worded condition. The Council considers that if the proposed mitigation can be secured there will be no harm to the conservation area.
HE2	Yes	None	A Heritage Statement was submitted as required.
HE3	Yes	Minor	As HE1 above.

LC1	N/A	N/A	The application is in outline form and we are awaiting feedback on the SSSI assessment from Natural England and Yorkshire Wildlife Trust.
GI1	Partial	None	The application is in outline form with only access being considered. The illustrative masterplan shows links to Green Infrastructure and Public Open Spaces but this would be assessed at reserved matters stage.
G12	Yes	None	The site does not immediately adjoining the neighbouring canal, Site L12 separates it.
GS1	No	Substantial	The masterplan framework seeks to create an integrated network of connected and multi-functional Green Infrastructure assets. The appellants have failed to demonstrate that their design and layout will enable this to be achieved in the most optimum way for the whole allocation. In the absence of this, the proposal takes a piecemeal approach to delivery of greenspace on the site rather than identifying a site wide solution. This substantially weighs against the proposal.
GS2	No	Substantial	Policy GS2 'Green Ways and Public Rights of Way' states 'we will protect Green Ways and Public Rights of Way from development that may affect their character or function'. The development does not

			accord with this policy for the reasons set out in policy GS1 above..
BIO1	Partial	Substantial	The appellants state they can achieve 10% BNG and submitted a number of surveys with the applications. However, the appellant has recently submitted additional Ecology information, including a SSSI Assessment, which are currently being assessed by Natural England and Yorkshire Wildlife Trust. Further feedback on this matter will follow.
CC2	N/A	N/A	The application is outline with all matters except access reserved. Sustainable Design and Construction would be considered at reserved matters stage.
CC3	Partially	Limited	Policy CC3 requires the extent and impact of flooding to be reduced. In the absence of convincing evidence from the appellant, there is no way of knowing whether the appeal proposals represent the optimal solution for the allocation as a whole. It has been agreed that this can be dealt with via condition.
CC4	Partially	Limited	As above.
RE1	N/A	N/A	The appeal relates to an outline application with all matters reserved apart from access.
CL1	Yes	Limited	Contamination and land stability can be dealt with via planning conditions. Such requirements are common to all development proposals and therefore

			compliance with this policy only attracts limited weight.
Poll1	Yes	Limited	As above
AQ1	N/A	N/A	The site is not within an Air Quality Management Area.
I1	Partial	Substantial	Policy I1 sets out the requirements for infrastructure and Planning Obligations. The appellants currently agree to Affordable Housing, Education contributions, Sustainable Travel Contributions, POS, 10%BNG and a contribution to the Northern Access Road but fail to provide a small Local Shop.
I2	Partial	Substantial weight attributed to conflict	Policy I2 'Education and Community Facilities' states that we will support the provision of schools, education facilities and other community facilities. The appellants currently agree to contributions to education but fail to provide the onsite Local Shop.

7.2 The NPPF sets out a presumption in favour of sustainable development and the Government's key objective to increase the delivery of new homes. Paragraph 11 identifies this presumption is to be applied in making decisions. Footnote 8 includes, in terms of policies being out-of-date, situations where the Local Planning Authority is not able to demonstrate a 5 year supply.

7.3 It is acknowledged that the tilted balance is engaged in this case. The Council cannot demonstrate a 5 year supply of housing land, as set out in the Statement of Common Ground. At the time of writing there are no other planning applications for residential development within allocations MU3 and MU2. The site has been identified and allocated for development in the Local Plan as Site MU3 for mixed use for housing and green space. Substantial weight should be attributed to the appeal scheme in terms of housing delivery. However, the development of part of the allocated site itself is not a benefit as a policy compliant scheme could potentially be brought forward. Further, as set out above, the appeal proposal would prejudice the potential development of the wider area.

7.4 Moderate weight is also attributed to the fact that the scheme would provide 10% affordable Housing, 10% BNG and Public Open Space and contributions towards education, Sustainable Travel and the Northern Access Road, although caution needs to be taken with the possibility of viability assessments being submitted down the line.

7.5 In terms of the two issues under tilted balance, set out in NPPF Paragraph 11 and footnote 7, reason for refusal 6 cited the impact that the proposed street paraphernalia would have on the Conservation Area and individual historic buildings. Since the refusal, the appellants have submitted further details in terms of the design of the street paraphernalia. It is for the Appellant to demonstrate that the proposed mitigation can be secured through an appropriately worded condition. The Council considers that if the proposed mitigation can be secured there will be no harm to the conservation area.

7.6 Following on from the above, reason for refusal 4 cites that the appellants have not adequately assessed the impact of the development on the SSSI. We are now in receipt of further Ecology

Surveys and a SSSI Assessment. Natural England and Yorkshire Wildlife Trust have been re-consulted on these additional documents and we are awaiting feedback on whether a separate clear reason for refusal exists or whether it would form part of the planning balance. This area is also addressed under the Ecology Proof of Evidence. It is not considered likely that this will amount to a separate reason for refusal or a clear reason to refuse the appeal in terms of para. 11(d)(i) NPPF. However, the position needs confirmation from Natural England. I understand that PINS are providing a screening direction in relation to the appeal scheme. Once available, the direction will need to be considered. In the event that the direction finds that the appeal scheme is EIA development, further though will need to be given to the impact of the development on the SSSI.

7.7 The benefits of the scheme coming forward are outlined above, however, significant weight has to be attributed to the fact the development as proposed is contrary to Local Plan Policy MU3, The Carlton Masterplan Frame Work and Delivery strategy. This development parcel is identified as L11 in the Delivery Strategy and is contained within Phase 3 of the phasing part. Within the strategy for Phase 3 it states that *“Due to congestion on the existing highway network, access needs to be secured off Royston Lane via the northern access road. This access road fits in with BMBC’s wider strategic transport aspirations.”* However, in order to secure access to Royston Lane, phased development of the parcels will require L12 to be brought forward in advance of L11

7.8 The purpose of the Masterplan is to ensure coordinated, comprehensive and quality development is brought forward at Carlton. It forms material guidance in the determination of any planning applications on the site. It therefore follows that if planning applications are allowed that do not comply with the masterplan, phasing and delivery strategies then it will undermine the delivery of the wide variety of its requirements and would jeopardise the critical

infrastructure that is going to be needed to serve the remainder of the MU3 allocation preventing the coordinated and comprehensive planning of the whole area. Furthermore, it would create a scenario where those that obtain planning permission first are not making the required contributions for cumulative infrastructure, the burden will then fall on the owners of the remainder of the land.

7.9 The masterplan framework seeks to create an integrated network of connected and multi-functional Green Infrastructure assets. The appellants have failed to demonstrate that their design and layout will enable this to be achieved in the most optimum way for the whole allocation. In the absence of this, the proposal takes a piecemeal approach to delivery of greenspace on the site rather than identifying a site wide solution. This substantially weighs against the proposal and is contrary to Local Plan Policies GS1 and GS2.

7.10 In terms of infrastructure, the application fails to provide a small local shop as part of the scheme, contrary to Policies MU3, I2 and TC5 and the Masterplan and associated Delivery Strategy. As outlined above, this would put a further burden on the developers of the neighbouring land and would be detrimental to the amenities of the future occupants of the development. They would not have services within a reasonable walking distance and would increase car reliance.

7.11 The appellants propose to bring the site forward out of sequence with the Masterplan and independently of the Northern Access Road with a single access point from Shaw Lane. The sole access from Shaw Lane would create or add problems of safety or the efficiency of the highway. This is expanded on further in the Highways Proof of evidence. Furthermore, an important indicator of a site's sustainability is its access to public transport in that dwellings should be within a 400m walk of a bus stop. The Northern Access Route would provide a bus corridor through the site and meet the 400m requirement. Without the Northern Access Route, the dwellings would

be considerably further from a bus stop and, as such, not sustainable with a greater reliance on cars. This carries substantial weight and the development as proposed is contrary to Local Plan Policies T3, T4 and T5. Again, this is expanded on further in the Highways Proof of evidence.

7.12 Significant weight also needs to be attributed to the failure of the development to meet the required housing densities set out in Local Plan Policy H6 and the Masterplan. The proposal falls short of the requirement to make effective and efficient use of land by providing a minimum of 40 dwellings per hectare. This significantly weighs against the proposal because there is no certainty that the yield can be achieved by increasing densities in subsequent phases.

7.13 If Parcel L11 falls short of the density requirement, then the burden would fall on the neighbouring parcels of land to achieve the required housing numbers which, given their location and sensitivity, is likely to have a negative impact on visual amenity and the development pattern of the area, contrary to Local Plan Policy D1 and NPPF para 131. The reduced density may impact the level of contributions, in that the appellants would have a lower requirement, again, impacting unfairly on other neighbouring landowners/developers who would be required to provide higher density housing and a greater burden of contributions towards the infrastructure.

7.14 It is recognised that the weight attributed to the policy conflict and other material planning considerations is a matter for the decision maker. In the Council's opinion, based on the table and text above, and on balance, the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the benefits.

7.15 The Council therefore respectfully requests that the appeal is dismissed accordingly as it is not in accordance with the requirements of Section 38(6) of the Planning and Compulsory Purchase

Act 2004, Section 70(2) of the Town and Country Planning Act 1990 and Paragraph 47 of the NPPF, for the reasons set out above. The Council agrees with the Appellant that the tilted balance is engaged but considers that the adverse impacts of the appeal scheme would significantly and demonstrably outweigh the acknowledged benefits.